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DEPARTMENT OF THE INTERIOR.

General Land Office.

[Circular No. 1438]

INSTRUCTIONS AUTHORIZING THE SECRETARY OF THE INTERIOR TO ISSUE PATENTS TO STATES UNDER THE EXCHANGE PROVISIONS OF SECTION 8 OF THE TAYLOR GRAZING ACT, AS AMENDED, SUBJECT TO PRIOR LEASES ISSUED UNDER SECTION 15 OF THE ACT

OCTOBER 13, 1937.

Registers, U. S. Land Offices.

SIRS: The Act of Congress approved August 24, 1937 (Public No. 346, 75th Congress), reads as follows:

That the Secretary of the Interior in adjudicating State exchanges, under section 8 of the Act of June 28, 1934 (48 Stat. 1269), as amended by the Act of June 26, 1936 (49 Stat. 1976), involving lands embraced in outstanding leases under section 15 of said Act issued prior to the filing of the State exchange application, is hereby authorized upon the request of any State to issue patent to the State, subject to such outstanding lease: *Provided*, That the United States shall not by reason of the issuance of any such patents be required to account to the State for any money due and collected prior thereto as rent for any part of the then-current annual rental period except as is now provided by law.

In accordance with the provisions of this Act, where a State application for exchange under the provisions of the Taylor Grazing Act approved June 28, 1934 (48 Stat. 1269), as amended by the Act of June 26, 1936 (49 Stat. 1976), is found to embrace lands included in an outstanding lease issued under Section 15 of said Act, before final action is taken by this office with a view to the issuance of patent on such application, the State will be afforded an opportunity to request the issuance of patent for the land involved subject to such outstanding lease, and upon receipt of such a request by the State, further action will be taken with a view to the issuance of patent, should no objection appear of record.

Accordingly, any application for lease, or for the renewal of a lease, under Section 15 of the Grazing Act, found to be in conflict with a pending State application under Section 8 of the Act, will be suspended and held in this office awaiting final action on the State's application.

When an application by the State has been approved for patenting, any such conflicting application for lease, or for the renewal of a lease, will be finally rejected and the case closed by this office. Should the State's application be finally rejected, the application for lease, or for renewal of a lease, will be considered upon its merits.

In accordance with the proviso to said Act of August 24, 1937, in cases where the United States has, prior to the issuance of such a patent, received payments for an unexpired portion of the then current annual rental period, no payment other than that provided for by Section 10 of the Grazing Act, as amended, will be required to be made to the State by the United States.

Very respectfully,

ANTOINETTE FUNK,
Acting Commissioner.

Approved, October 13, 1937.

OSCAR L. CHAPMAN,
Assistant Secretary.

[F. R. Doc. 37-3313; Filed, November 13, 1937; 9:29 a. m.]

National Bituminous Coal Commission.

[Order No. 64]

AN ORDER PROVIDING FOR A HEARING TO DETERMINE THE NATURE AND EXTENT OF INTRASTATE COMMERCE IN BITUMINOUS COAL IN THE STATE OF MISSOURI AND THE EFFECT OF SUCH COMMERCE UPON INTERSTATE COMMERCE IN SUCH COAL, TO BE HELD AT KANSAS CITY, MISSOURI, ON NOVEMBER 29, 1937, BEFORE AN EXAMINER, AND NOTICE THEREOF

Pursuant to act of Congress entitled "An Act to regulate interstate commerce in bituminous coal, and for other purposes" (Public, No. 48, 75th Cong., 1st Sess.), known as the Bituminous Coal Act of 1937, the National Bituminous Coal Commission, upon being advised that substantially all transactions in bituminous coal in intrastate commerce within the State of Missouri directly affect interstate commerce in such coal and will cause undue and unreasonable advantage, preference or prejudice as between such commerce in Missouri on the one hand and interstate commerce in such coal on the other hand as such interstate commerce is provided to be regulated by the Bituminous Coal Act of 1937, and that a hearing to determine the effect of intrastate transactions in bituminous coal upon interstate transactions in bituminous coal in the State of Missouri would be desirable, and upon investigation hereby orders:

1. That on November 29, 1937, commencing at the hour of ten (10) o'clock A. M., at the Hearing Room of the Commission in the Hotel Kansas Citian, Kansas City, Missouri, a public hearing will be held to determine the nature and extent of intrastate commerce in bituminous coal in the State of Missouri, and the effect of such commerce upon interstate commerce in such coal and to determine what, if any, undue or unreasonable advantage, preference or prejudice, will exist between localities in Missouri in such commerce on the one hand and interstate commerce as regulated by the Bituminous Coal Act of 1937 on the other hand and what, if any, undue, unreasonable or unjust discriminations against interstate commerce in coal have occurred or will occur under the administration of Section 4 of said Act to the end that the Commission may, after hear-

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ing, take such action as is necessary to give effect to the Bituminous Coal Code and to the provisions of Section 4–A of said Act.

2. That said hearing will be conducted by an Examiner designated by the Commission.

3. That interested parties may appear and present evidence at such hearing.

4. That any producer believing that particular transactions in intrastate commerce in bituminous coal are not subject to the provisions of the first paragraph of Section 4–A will, subsequent to the final order of the Commission in the proceeding herein noticed, be afforded full opportunity to file an application for exemption as provided in said section, upon which application a hearing will thereafter be held by the Commission upon proper notice given.

5. That failure of any producer to appear and present evidence at the hearing herein noticed to be held in Kansas City, Missouri, on November 29, 1937, will not prejudice the case of any producer to be heard upon such application.

6. That the Secretary of the Commission shall forthwith mail a copy of this notice to the Consumers' Counsel, to each known producer of bituminous coal in the State of Missouri, and to the secretaries of all of the District Boards, and shall cause to be published at the expense of the Commission copy of this order and notice for three (3) days in newspapers of general circulation in the counties of Missouri in which bituminous coal is produced.

By order of the Commission.

Dated this 11th day of November, 1937.

[SEAL] F. WITCHER MCCULLOUGH, *Secretary.*

[F. R. Doc. 37-3322; Filed, November 15, 1937; 12:42 p. m.]

[Order No. 65]

AN ORDER DETERMINING THE WEIGHTED AVERAGE OF THE TOTAL COSTS OF THE TONNAGE FOR MINIMUM PRICE AREA NO. 3

Pursuant to Act of Congress entitled "An Act to regulate interstate commerce in bituminous coal, and for other purposes" (Public, No. 48, 75th Cong., 1st Sess.), known as the Bituminous Coal Act of 1937, the National Bituminous Coal Commission, upon consideration of the determination of the District Board for District No. 13, which with the exception of Van Buren, Warren and McMinn Counties in Tennessee, constitutes Minimum Price Area No. 3, as defined in the Act, of the weighted average of the total costs of the ascertainable tonnage produced in Minimum Price Area No. 3, in the calendar year 1936, adjusted as required by the Act, together with all computations upon which said determinations were based, as filed with the Commission pursuant to Order No. 56 of the Commission, dated October 13, 1937,[1] and in accordance with Section 4, Part II, subsection (a) of the Act, and upon consideration of the report of its Division of Statistics upon said determination, hereby orders and directs:

1. That the weighted average of the total costs of the tonnage for Minimum Price Area No. 3 in the calendar year 1936, adjusted as required by the Act, be and it is hereby determined to be the sum of two dollars and fifty-five cents ($2.55), per net ton.

[1] 2 F. R. 2573 (DI).

2. That the weighted average figures of total costs determined herein shall be available for inspection by the public at the office of the Secretary of the Commission, and the Statistical Bureau of the Commission in Price Area No. 3.

The Secretary of the Commission shall forthwith mail a copy of this order to the Consumers' Counsel, to the Secretary of District Board No. 13, and publish a copy of this order in the FEDERAL REGISTER.

By order of the Commission.

Dated this 13th day of November, 1937.

[SEAL] F. WITCHER MCCULLOUGH, *Secretary.*

[F. R. Doc. 37-3323; Filed, November 15, 1937; 12:42 p. m.]

[Order No. 66]

AN ORDER DETERMINING THE WEIGHTED AVERAGE OF THE TOTAL COSTS OF THE TONNAGE FOR MINIMUM PRICE AREA NO. 4

Pursuant to Act of Congress entitled "An Act to regulate interstate commerce in bituminous coal, and for other purposes" (Public, No. 48, 75th Cong., 1st Sess.), known as the Bituminous Coal Act of 1937, the National Bituminous Coal Commission, upon consideration of the determination of the District Board for District No. 14, constituting Minimum Price Area No. 4, as defined in the Act, of the weighted average of the total costs of the ascertainable tonnage produced in District No. 14 in the calendar year 1936, adjusted as required by the Act, together with all computations upon which said determination was based, as filed with the Commission pursuant to Order No. 56 of the Commission, dated October 13, 1937,[1] and in accordance with Section 4, Part II, subsection (a) of the Act, and upon consideration of the report of its Division of Statistics upon said determination, hereby orders and directs:

1. That the weighted average of the total costs of the tonnage for Minimum Price Area No. 4 in the calendar year 1936, adjusted as required by the Act, be and it is hereby determined to be the sum of Three Dollars and Fifty-nine Cents ($3.59), per net ton.

2. That the weighted average figures of total costs determined herein shall be available for inspection by the public at the office of the Secretary of the Commission and the statistical bureau of the Commission in Price Area No. 4.

The Secretary of the Commission shall forthwith mail a copy of this order to the Consumers' Counsel, to the Secretary of District Board No. 14, and publish a copy of this order in the FEDERAL REGISTER.

By order of the Commission.

Dated this 13th day of November, 1937.

[SEAL] F. WITCHER MCCULLOUGH, *Secretary.*

[F. R. Doc. 37-3324; Filed, November 15, 1937; 12:42 p. m.]

[Order No. 67]

AN ORDER DETERMINING THE WEIGHTED AVERAGE OF THE TOTAL COSTS OF THE TONNAGE FOR MINIMUM PRICE AREA NO. 5

Pursuant to Act of Congress entitled "An Act to regulate interstate commerce in bituminous coal, and for other purposes" (Public, No. 48, 75th Cong., 1st Sess.), known as the Bituminous Coal Act of 1937, the National Bituminous Coal Commission, upon consideration of the determination of the District Board for District No. 15, constituting Minimum Price Area No. 5, as defined in the Act, of the weighted average of the total costs of the ascertainable tonnage produced in District No. 15 in the calendar year 1936, adjusted as required by the Act, together with all computations upon which said determination was based, as filed with the Commission pursuant to Order No. 56 of the Commission, dated October 13, 1937,[1] and in accordance with Section 4, Part II, subsection (a) of the Act, and upon consideration of the report of its Division of Statistics upon said determination, hereby orders and directs:

1. That the weighted average of the total costs of the tonnage for Minimum Price Area No. 5, in the calendar year 1936, adjusted as required by the Act, be and it is hereby determined to be the sum of Two Dollars and Two Cents ($2.02), per net ton.

2. That the weighted average figures of total costs determined herein shall be available for inspection by the public at the office of the Secretary of the Commission and the Statistical Bureau of the Commission in Price Area No. 5.

The Secretary of the Commission shall forthwith mail a copy of this order to the Consumers' Counsel, to the Secretary of District Board No. 15, and publish a copy of this order in the FEDERAL REGISTER.

By order of the Commission.

Dated this 13th day of November, 1937.

[SEAL] F. WITCHER MCCULLOUGH, *Secretary.*

[F. R. Doc. 37-3325; Filed, November 15, 1937; 12:42 p. m.]

[Order No. 68]

AN ORDER DETERMINING THE WEIGHTED AVERAGE OF THE TOTAL COSTS OF THE TONNAGE FOR MINIMUM PRICE AREA NO. 6

Pursuant to Act of Congress entitled "An Act to regulate interstate commerce in bituminous coal, and for other purposes" (Public No. 48, 75th Cong., 1st Sess.), known as the Bituminous Coal Act of 1937, the National Bituminous Coal Commission, upon consideration of the determinations of the District Boards for Districts No. 16, No. 17, and No. 18, constituting Minimum Price Area No. 6, as defined in the Act, of the weighted averages of the total costs of the ascertainable tonnages produced in their respective districts in the calendar year 1936, adjusted as required by the Act, together with all computations upon which said determinations were based, as filed with the Commission pursuant to Order No. 56 of the Commission, dated October 13, 1937,[1] and in accordance with Section 4, Part II, subsection (a) of the Act, and upon consideration of the report of its Division of Statistics upon said determinations, hereby orders and directs:

1. That the weighted average of the total costs of the tonnage for Minimum Price Area No. 6 in the calendar year 1936, adjusted as required by the Act, be and it is hereby determined to be the sum of two dollars and seventy-four cents ($2.74), per net ton.

2. That the weighted average figures of total costs determined herein shall be available for inspection by the public at the office of the Secretary of the Commission and the several statistical bureaus of the Commission in Price Area No. 6.

The Secretary of the Commission shall forthwith mail a copy of this order to the Consumers' Counsel, to the Secretaries of the respective District Boards within Minimum Price Area No. 6, and publish a copy of this order in the FEDERAL REGISTER.

By order of the Commission.

Dated this 13th day of November, 1937.

[SEAL] F. WITCHER MCCULLOUGH, *Secretary.*

[F. R. Doc. 37-3326; Filed, November 15, 1937; 12:43 p. m.]

[Order No. 69]

AN ORDER DETERMINING THE WEIGHTED AVERAGE OF THE TOTAL COSTS OF THE TONNAGE FOR MINIMUM PRICE AREA NO. 7

Pursuant to Act of Congress entitled "An Act to regulate interstate commerce in bituminous coal, and for other purposes" (Public, No. 48, 75th Cong., 1st Sess.), known as the Bituminous Coal Act of 1937, the National Bituminous Coal Commission, upon consideration of the determinations of the

[1] 2 F. R. 2573 (DI).

[1] 2 F. R. 2573 (DI).

District Boards for Districts No. 19 and No. 20, constituting Minimum Price Area No. 7, as defined in the Act, of the weighted averages of the total costs of the ascertainable tonnages produced in their respective districts in the calendar year 1936, adjusted as required by the Act, together with all computations upon which said determinations were based, as filed with the Commission pursuant to Order No. 56 of the Commission, dated October 13, 1937,[1] and in accordance with Section 4, Part II, subsection (a) of the Act, and upon consideration of the report of its Division of Statistics upon said determinations, hereby orders and directs:

1. That the weighted averages of the total costs of the tonnage for Minimum Price Area No. 7 in the Calendar year 1936, adjusted as required by the Act, be and it is hereby determined to be the sum of Two Dollars and Forty-six Cents ($2.46), per net ton.

2. That the weighted average figures of total costs determined herein shall be available for inspection by the public at the office of the Secretary of the Commission and the Statistical Bureaus of the Commission in Price Area No. 7.

The Secretary of the Commission shall forthwith mail a copy of this order to the Consumers' Counsel, to the Secretaries of the respective District Boards within Minimum Price Area No. 7, and publish a copy of this order in the FEDERAL REGISTER.

By order of the Commission.

Dated this 13th day of November, 1937.

[SEAL] F. WITCHER MCCULLOUCH, *Secretary.*

[F. R. Doc. 37-3327; Filed, November 15, 1937; 12:43 p. m.]

[Order No. 70]

AN ORDER DETERMINING THE WEIGHTED AVERAGE OF THE TOTAL COSTS OF THE TONNAGE FOR MINIMUM PRICE AREA NO. 9

Pursuant to Act of Congress entitled "An Act to regulate interstate commerce in bituminous coal, and for other purposes" (Public, No. 48, 75th Cong., 1st Sess.), known as the Bituminous Coal Act of 1937, the National Bituminous Coal Commission, upon consideration of the determination of the District Board for District No. 22, constituting Minimum Price Area No. 9, as defined in the Act, of the weighted average of the total costs of the ascertainable tonnage produced in District No. 22 in the calendar year 1936, adjusted as required by the Act, together with all computations upon which said determination was based, as filed with the Commission pursuant to Order No. 56 of the Commission, dated October 13, 1937,[1] and in accordance with Section 4, Part II, subsection (a) of the Act, and upon consideration of the report of its Division of Statistics upon said determination, hereby orders and directs:

1. That the weighted average of the total costs of the tonnage for Minimum Price Area No. 9 in the calendar year 1936, adjusted as required by the Act, be and it is hereby determined to be the sum of Two Dollars and Eleven Cents ($2.11), per net ton.

2. That the weighted average figures of total cost determined herein shall be available for inspection by the public at the office of the Secretary of the Commission and the statistical bureau of the Commission in Price Area No. 9.

The Secretary of the Commission shall forthwith mail a copy of this order to the Consumers' Counsel, to the Secretary of District Board No. 22, and publish a copy of this order in the FEDERAL REGISTER.

By order of the Commission.

Dated this 13th day of November, 1937.

[SEAL] F. WITCHER MCCULLOUGH, *Secretary.*

[F. R. Doc. 37-3328; Filed, November 15, 1937; 12:43 p. m.]

[1] 2 F. R. 2573 (DI).

[Order No. 71]

AN ORDER DETERMINING THE WEIGHTED AVERAGE OF THE TOTAL COSTS OF THE TONNAGE FOR MINIMUM PRICE AREA NO. 10

Pursuant to Act of Congress entitled "An Act to regulate interstate commerce in bituminous coal, and for other purposes" (Public, No. 48, 75th Cong., 1st Sess.), known as the Bituminous Coal Act of 1937, the National Bituminous Coal Commission, upon consideration of the determination of the District Board for District No. 23, constituting Minimum Price Area No. 10, as defined in the Act, of the weighted average of the total costs of the ascertainable tonnage produced in District No. 23, in the calendar year 1936, adjusted as required by the Act, together with all computations upon which said determination was based, as filed with the Commission pursuant to Order No. 56 of the Commission, dated October 13, 1937,[1] and in accordance with Section 4, Part II, subsection (a) of the Act, and upon consideration of the report of its Division of Statistics upon said determination, hereby orders and directs:

1. That the weighted average of the total costs of the tonnage for Minimum Price Area No. 10 in the calendar year 1936, adjusted as required by the Act, be and it is hereby determined to be the sum of Three Dollars and Forty-Five Cents ($3.45), per net ton.

2. That the weighted average figures of total costs determined herein shall be available for inspection by the public at the office of the Secretary of the Commission and the statistical bureau of the Commission in Price Area No. 10.

The Secretary of the Commission shall forthwith mail a copy of this order to the Consumers' Counsel, to the Secretary of District Board No. 23, and publish a copy of this order in the FEDERAL REGISTER.

By Order of the Commission.

Dated this 13th day of November, 1937.

[SEAL] F. WITCHER MCCULLOUGH, *Secretary.*

[F. R. Doc 37-3329; Filed, November 15, 1937; 12:44 p. m.]

DEPARTMENT OF AGRICULTURE.

Bureau of Animal Industry.

NOTICE UNDER ACT TO REGULATE INTERSTATE AND FOREIGN COMMERCE IN LIVESTOCK, ETC.

NOVEMBER 12, 1937.

To the Muskingum Livestock Market, Inc.,
Stockyard owner, at Zanesville, Ohio.

Whereas Section 301 of Title III of an Act of Congress entitled "An Act to regulate interstate and foreign commerce in livestock, livestock products, dairy products, poultry, poultry products, and eggs, and for other purposes", approved August 15, 1921, provides in part that, when used in said Act, the term "stockyard owner" means any person engaged in the business of conducting or operating a stockyard; and Section 302 of said Act provides as follows:

(a) When used in this title the term "stockyard" means any place, establishment, or facility commonly known as stockyards, conducted or operated for compensation or profit as a public market, consisting of pens, or other inclosures, and their appurtenances, in which live cattle, sheep, swine, horses, mules, or goats are received, held, or kept for sale or shipment in commerce. This title shall not apply to a stockyard of which the area normally available for handling livestock, exclusive of runs, alleys, or passage ways, is less than twenty thousand square feet.

(b) The Secretary shall from time to time ascertain, after such inquiry as he deems necessary, the stockyards which come within the foregoing definition, and shall give notice thereof to the stockyard owners concerned, and give public notice thereof by posting copies of such notice in the stockyard, and in such other manner as he may determine. After the giving of such notice to the stockyard owner and to the public, the stockyard shall remain subject to the provisions of this title until like notice is given by the

[1] 2 F. R. 2573 (DI).

Secretary that such stockyard no longer comes within the foregoing definition.

Notice is hereby given that after inquiry it has been ascertained by me as Secretary of Agriculture of the United States that the stockyard known as The Muskingum Livestock Market, Inc., at Zanesville, State of Ohio, comes within the foregoing definition and is subject to the provisions of said Act.

The attention of stockyard owners, market agencies, dealers and other persons concerned is directed to Sections 303 and 306 and other pertinent provisions of said Act and the rules and regulations issued thereunder by the Secretary of Agriculture.

[SEAL] H. A. WALLACE,
Secretary of Agriculture.

[F. R. Doc. 37-3316; Filed, November 13, 1937; 12:18 p. m.]

DEPARTMENT OF COMMERCE.

Bureau of Fisheries.

ORDER CLOSING CERTAIN AREAS IN UPPER MISSISSIPPI WILD LIFE AND FISH REFUGE TO FISHING

By virtue of the authority in me vested by the Upper Mississippi River Wild Life and Fish Refuge Act of June 7, 1924 (43 Stat. 650) and pursuant to Section (b) of Regulation 1–C of the Regulations for the Administration of the Upper Mississippi River Wild Life and Fish Refuge, set forth in United States Department of Agriculture Bureau of Biological Survey Service and Regulatory Announcements issued in December 1934, it is hereby ordered that the following described areas in Clayton County, Iowa, be, and they hereby are, set aside for the propagation and distribution of fish by the Bureau of Fisheries, and the taking of fish or aquatic animal life of any kind from the said areas is prohibited from this the seventeenth day of November, 1937, on.

Section 16, T. 92 N., R. 2 W., 5th P. M., Lot 1 except the N. 100-ft. strip; Lots 2, 3, 4, 5, 6, 7, 8, 9, 10, and 11; Sublots 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36, 37, 38, all in the E½.

Section 21, T. 92 N., R. 2 W., 5th P. M., Lot 1.

[SEAL] DANIEL C. ROPER,
Secretary of Commerce.

[F. R. Doc. 37-3314; Filed, November 13, 1937; 11:35 a. m.]

FEDERAL HOUSING ADMINISTRATION.

[Circular No. 3 [1]]

RENTAL HOUSING

INSURANCE OF MORTGAGES

Administrative Rules and Regulations Under Section 207, Title II of the National Housing Act

CONTENTS

[1] This Circular covers in general terms the procedure involved in the insurance of mortgages on housing projects under Section 207 of the National Housing Act and sets forth the Administrative Rules and Regulations governing such insurance. Those contemplating the initiation of such projects, or desiring further information on the subject, should communicate directly, either by correspondence or in person, with the Rental Housing Division, Federal Housing Administration, Washington, D. C., or with the local F. H. A. State or District Director.

PART I

SCOPE OF OPERATIONS UNDER SECTION 207

1. The National Housing Act provides for the insurance of mortgages upon two general classes of property:

(*a*) Properties consisting of one- to four-family dwellings. Rules and Regulations with respect thereto are set forth in FHA Form No. 2010, entitled Mutual Mortgage Insurance, and, with respect to activities of operative builders, in Circular No. 4.

(*b*) Properties consisting of a larger number of family units either in one building or in a group of buildings. The Rules and Regulations set forth in this Circular apply to such properties.

2. The general class of property described in the preceding subparagraph (*b*) is herein termed "rental housing" and is further subdivided into

(*a*) Large Scale Rental Projects;
(*b*) Small Scale Rental Projects;
(*c*) Public Housing Projects;

the requirements for each of which are set forth in Parts II–A, II–B, and II–C, respectively, of this Circular (No. 3).

3. The term "rental housing" includes housing the occupancy of which is permitted by the owner thereof in consideration of the payment of agreed monthly charges, whether or not by the terms of the agreement such payment over a period of time will entitle the occupant to the ownership of the premises. Where the project involves a total of fifty (50) or more family units in detached structures containing three (3) or more family units in each structure, the project must be submitted under Section 207 and must meet the requirements outlined in this Circular (No. 3). Where the project involves a total of less than fifty (50) family units or consists of detached structures containing less than three (3) family units in each structure, and it is intended from time to time to deed individual parcels separately from the whole, the project may, at sponsor's election, be submitted either under the operative builders' program (Circular No. 4) or under Section 207.

GENERAL POLICY

Among the purposes set forth in the preamble to the National Housing Act, the first is "to encourage improvement in housing standards and conditions." In Section 207, under the heading of "Low-Cost Housing Insurance", the Act provides for the insurance of mortgages "covering property held by Federal or State instrumentalities, private limited dividend corporations, or municipal corporate instrumentalities of one or more States, formed for the purpose of providing housing for persons of low income, which are regulated or restricted by law or by the Administrator as to rents, charges, capital structure, rate of return, or methods of operation."

Under these provisions of such Act the Federal Housing Administration seeks to obtain the widest possible usefulness for the facilities arising out of its power to insure mortgages on low-cost housing projects. The projects themselves may be of different types such as the construction or rehabilitation of an apartment building or groups of such buildings; detached single-family houses so arranged as to create a more or less self-contained neighborhood; a community of semi-detached or row houses; any combination of the types aforementioned. The essential consideration, whatever the type of project, is that the housing shall be well planned and of sound construction, intended for rental at the lowest figure consistent with sound operation.

The precise application of the phrase "for the purpose of providing housing for persons of low income" will be determined by the Administrator with respect to each separate project submitted for insurance on the basis of the following general principles:

(1) In a given community or neighborhood persons of low income will be taken to mean persons whose incomes at the time a project is submitted are insufficient to permit, without sacrifice of other essentials of living or security, their occupancy of housing of adequate standards of sanitation, safety, and amenity which has been erected under conditions of financing, construction, and operation less favorable than those made possible by the National Housing Act.

(2) If through the use of the mortgage insurance facilities of the National Housing Act, through the efficient planning, construction, and operation of a group of dwelling units, and through the control of rents, charges, capital structure, rate of return, and methods of operation of the mortgagor during the term of the insured mortgage, the cost of housing of the required standards can be so reduced as to fall within the means of such persons of low income, the Administrator will consider a proposal to erect such a group of dwellings as a low-cost housing project.

(3) No project will be deemed to fall within this classification if it provides housing accommodations which are obviously in the luxury class or which are obliged to compete for tenancy by the offering of extraordinary facilities and services; nor will any project be approved for mortgage insurance if the housing accommodations called for are so incompatible with the general character of the community or neighborhood as to impair the economic soundness of the undertaking.

(4) When through the provision of new housing or otherwise, any low-income group can find in a given community or neighborhood a reasonable choice of accommodations of the required standard within a rental range which it can afford to pay, no additional housing for such group will be considered low-cost housing.

(5) In cases where applications for mortgage insurance on low-cost housing projects are submitted by Federal or State instrumentalities or municipal corporate instrumentalities which receive public grants, subsidies, or other advantages not available to private limited dividend corporations, the accommodations provided by such projects must be so designed and restricted as to occupancy that such projects may not be directly competitive with private operations.

Two main types of financing may be accomplished under an insured mortgage under Section 207 of the Act. Both types are alike in the requirement that the mortgagor—the sponsor of the project—must be a definite legal entity endowed with full responsibility and possessed of the requisite degree of permanence and reliability to make the periodic payments on the debt.

One type of transaction will be the execution to a single lending institution, which advances the entire amount borrowed, of a credit instrument or instruments secured by a so-called straight mortgage creating a first lien on the property. In such case the mortgage, together with the credit instrument or instruments secured thereby, will be held by the lending institution for its own use and benefit without the intervention of a trustee.

The second method may consist of the execution by the mortgagor corporation of an indenture of trust to an appropriate trustee providing for the issue and sale thereunder of bonds or other obligations. In such cases it will be required that the bonds be retired at or before maturity by means of sinking funds operating through purchase in the market or call by lot.

In the case of low-cost housing projects sponsored by Federal, State, or municipal instrumentalities, opportunity is afforded for the cooperation of public funds and private capital. Agencies of the Federal or of any State Government having funds available for low-cost housing and slum-clearance projects, may employ substantial sums in the form of grants or subsidies as the equity investment, and the remainder of the funds required for the project can be advanced from private sources against an insured first mortgage.

PART II

ADMINISTRATIVE RULES

A. Large-Scale Rental Projects

Section I. Application and Commitment

1. Information required for preliminary examination of a Large Scale Rental project shall be submitted by the sponsors of such project through the local Federal Housing Administration State or District Director on FHA Form 2013. No application will be considered unless the exhibits called for by that form are furnished. The submission of the Form 2013 will be deemed to be the applicant's agreement to pay an amount computed at the rate of $3.00 per thousand of the original principal face amount of the mortgage loan to be insured, on account of the costs of appraisal and examination during construction. Such amount shall be payable in two installments:

(*a*) one-half (referred to as "commitment fee") prior to the issuance of a conditional commitment, and

(*b*) the remainder (referred to as "closing fee") before the Administrator's Contract of Mortgage Insurance shall issue.

If the Administrator shall (1) refuse to issue a commitment or (2) issue a commitment unacceptable to the applicant because it contains conditions not covered by the application, one-half of the commitment fee shall be returned to the applicant upon written request, if made within thirty (30) days from the date of such refusal or of such commitment, as the case may be. If after commitment an application to increase the amount of the insured mortgage is presented, a new commitment fee based upon the amount of such increase will be required to be paid at the time the application for such increase is filed. If the principal amount of the mortgage finally insured by the Contract of Insurance is greater or less than the principal amount of the mortgage applied for, an adjustment will be made in the closing fee so that the aggregate amount of the commitment and closing fees shall equal $3.00 per thousand of the original principal face amount of the insured mortgage. If after insurance the amount of the insured mortgage is increased either by amendment or by the substitution of a new insured mortgage, the fees herein provided for shall be based upon the amount of such increase.

2. Upon the submission of a project, the Administration will examine such information and determine therefrom whether the project is eligible for insurance. In the event that a project is found to be eligible, the Administration will verify the representations of the sponsors, make such further examination, and require such further information from sponsors or such changes in the project as it may deem necessary.

3. Upon payment of the commitment fee and if the project shall, in the opinion of the Administrator, be satisfactory, the Administrator will issue to sponsors his commitment to insure the proposed mortgage. *No commitment shall be valid unless signed by the Administrator or on his behalf by the Acting Administrator.* The commitment will be conditioned upon special requirements applicable to the project and upon full compliance satisfactory to the Administrator

with the requirements of these Rules and upon the submission in final form within a time specified of all appropriate documents, drawings, plans, specifications, estimates, and other instruments evidencing such compliance.

Section II. Eligible Mortgages

1. The Administrator does not furnish mortgage forms for each project or for each jurisdiction. The forms customarily used in any particular jurisdiction if so modified and amplified as to include the matters herein set forth, and if otherwise satisfactory to the Administrator, will be approved.

2. In order to be eligible for insurance as a Large Scale Rental Mortgage under the provisions of this Part II–A a mortgage shall create a first lien securing a principal obligation not in excess of $10,000,000, and such part thereof as may be attributable to dwelling use shall not exceed $1,300 per room, depending upon the location of the project and local building costs and rental conditions. The principal obligation of such mortgage shall not exceed eighty per centum (80%) of the amount which the Administrator estimates will be the fair value of the property or project when completed.

3. The mortgage must have a maturity satisfactory to the Administrator, depending upon the risk involved and the general character of the project, and shall contain amortization or sinking-fund provisions satisfactory to the Administrator.

4. The mortgage shall provide for payments by the mortgagor to the mortgagee on account of interest, principal, and mortgage insurance at intervals of not more than six (6) months.

5. The mortgage shall bear interest at such rate, not exceeding four and one-half per centum (4½%) per annum, as may be agreed upon between the mortgagor and the mortgagee. All charges made in connection with the mortgage transaction shall be subject to the approval of the Administrator.

6. The mortgage shall cover the entire property included in the rental housing project. Where the project consists wholly of single-family houses the mortgage may include appropriate provisions for the release from the lien thereof of any such house and the land upon which it is located in consideration of the payment to the mortgagee, in reduction of the principal of the mortgage, of an amount set forth in a schedule attached to and forming part of said mortgage. Such mortgages shall provide that the released property be subject to deed restrictions, approved by the Admintrator at the time of the insurance of the mortgage and providing to the properties remaining under the mortgage adequate protection against adverse influences. Where the mortgage does not contain such release provisions no property shall, except with the consent of the mortgagee and the Administrator, be released from the lien thereof so long as the mortgage insurance is in force.

7. The mortgage shall contain a covenant against the creation by the mortgagor of liens against the property inferior to the lien of the mortgage.

8. The mortgage shall contain a covenant binding the mortgagor to keep the premises insured against fire and such other hazards as the Administrator may stipulate, in companies and in amounts satisfactory to the Administrator. The policies evidencing such insurance shall include as one of the assured the Administrator as his interest may appear, and shall have attached standard form mortgage clause making loss, if any, payable to the mortgagee.

9. No mortgage shall be accepted for insurance unless the Administrator finds that the project with respect to which it is executed is economically sound.

10. The mortgage shall provide for payments by the mortgagor to the mortgagee on each interest payment date of an amount sufficient to accumulate in the hands of the mortgagee the next annual mortgage insurance premium payable by the mortgagee to the Administrator. Such payments shall continue only so long as the contract of insurance shall remain in effect. The mortgage shall provide that upon the payment of the mortgage before maturity, the mortgagor shall pay the premium charge referred to in Article III, Paragraph 2 of the Regulations.

11. All periodic payments to be made by the mortgagor to the mortgagee shall be added together and the aggregate amount thereof shall be paid by the mortgagor upon each periodic payment date in a single payment. The mortgagee shall apply the same to the following items in the order set forth:

(*a*) premium charges under the contract of insurance;

(*b*) at its discretion, to any sums due under the terms of the mortgage or the credit instrument which it secures.

Any deficiency in the amount of any such aggregate periodic payment shall, unless made good by the mortgagor within any grace period stated in the mortgage, constitute an event of default under the mortgage.

Section III. Eligible Mortgagors

1. In order to be eligible as a mortgagor of a Large Scale Rental Project such mortgagor must be a private limited dividend corporation organized under the general business incorporation law of the state wherein the project is located, or under other authority, subject to the approval of the Administrator.

2. Such mortgagor corporation (*a*) must have been formed for the purpose of providing housing for persons of low income as interpreted by the Administrator with respect to such project, in accordance with the general principles hereinbefore set forth, and (*b*) shall be regulated or restricted by law or by the Administrator as to rents, charges, capital structure, rate of return, and methods of operation as set forth in the following Section. It shall engage in no business other than the construction and operation of a rental housing project or projects covered by an insured mortgage or mortgages. Such regulation or restriction shall terminate at such time as the mortgage insurance contract is no longer in effect.

Section IV. Regulation or Restriction of Mortgagors

The regulation or restriction of an eligible mortgagor of a Large Scale Rental Project shall be as set forth in the certificate of incorporation, and shall embody, in substance, the requirements hereinafter mentioned. The regulation or restriction thus imposed will be made effective through the issuance of certain shares of special stock which will acquire majority voting rights in the event of default under the mortgage or violation of a provision of the certificate of incorporation, but only for a period coexistent with the duration of such default or violation. Such special stock shall be held and all voting rights with respect thereto exercised by the Administrator or his nominee. When the contract of insurance shall have been terminated the shares of special stock shall be surrendered by the Administrator or such nominee.

1. *Rents and charges.*—Except as hereinafter provided,

(*a*) No charge shall be made by the mortgagor corporation for the accommodations offered by the project in excess of a rental schedule to be filed with the Administrator prior to the opening of the project for rental, which schedule shall be based upon a maximum average rental fixed prior to the insurance of the mortgage. Such schedule shall not thereafter be changed except upon application of the mortgagor corporation and the written approval of the Administrator. In establishing such maximum and in passing upon applications for changes, consideration will be given the following and similar factors:

(1) Relation of the proposed rentals to those currently being paid in the given community by families for whom this type of housing is intended.

(2) Average annual earnings of the families for whom the housing is intended.

(3) Rental income necessary to maintain the economic soundness of the project.

(*b*) The established maximum rental shall be the maximum authorized charge against any tenant for the ac-

commodations offered exclusive of telephone, gas, electric, and refrigeration facilities. Charges in addition to such maximum rental may be made against a tenant for telephone, gas, electric, refrigeration, and other facilities and privileges furnished by the mortgagor, subject to the approval of the Administrator.

(c) In the case of a project subject to a mortgage containing release clauses, all matters with respect to the release and all agreements between the mortgagor and its vendees with respect to the amount and terms of sale must first be approved by the Administrator.

2. *Capital structure.*—

(a) In appraising a project for commitment the Administrator will value the contribution of the sponsors (which shall be in the form of unencumbered land, and such cash and services as the Administrator shall require) at an amount determined by him to represent its value as a component part of the project upon completion, and shall credit sponsors, for appraisal purposes, with the amount of equity so found. The sponsors shall satisfy the Administrator that the cash and services contributed as part of such equity shall, when added to the proceeds of the mortgage, be sufficient to cover all estimated costs of the project and to provide a cash reserve for contingencies, preopening expense, and other items during the construction period.

(b) Such number of shares of capital stock may be issued either with or without par value, as sponsors may deem appropriate, and such stock, together with such amount, if any, as may be carried on the books of the corporation as paid-in surplus, shall represent such equity. Additional stock may be authorized but the certificate of incorporation shall provide that it may not be issued except with the approval of the Administrator. No stock shall be redeemed or purchased by the corporation during the period in which the mortgage insurance is in force, except with the approval of the Administrator.

3. *Rate of return.*—No dividends shall be declared or paid by the corporation in any one dividend year in excess of an aggregate amount fixed by the Administrator at the time the mortgage is accepted for insurance. Such amount shall not exceed an amount equal to six per centum (6%) per annum of the equity as valued by the Administrator, but the Administrator may permit an additional stated amount not in excess of two per centum (2%) per annum payable out of surplus earnings of the corporation after provision for required reserves, provided that no such additional dividends shall be declared or paid unless the principal of the insured mortgage shall be prepaid in an amount at least equal to required interest and principal payments for the first amortization year.

4. *Methods of operation.*—

(a) No compensation shall be paid by the corporation except for necessary services and except at such rate as is fair and reasonable in the locality for similar services, nor, except with the prior written approval of the Administrator, shall any compensation be paid by the corporation to its officers, directors, or stockholders, or to any person or corporation for supervisory or managerial services, or to any employee in an amount in excess of eighteen hundred dollars ($1,800) per annum. No officer, director, stockholder, agent, or employee of the corporation shall in any manner become indebted to the corporation.

(b) The corporation shall maintain its project, the grounds, buildings, and equipment appurtenant thereto, in good repair and in such condition as will preserve the health and safety of its tenants.

(c) Before the payment of any dividend by the corporation reserves shall be accumulated and so replenished from time to time as to remain intact so long as the mortgage insurance is in force. The amount and types of such reserves and the conditions under which they shall be accumulated, replenished, and used, shall be specified in the certificate of incorporation.

(d) The corporation, its property, equipment, buildings, plans, offices, apparatus, devices, books, contracts, records, documents, and papers shall be subject to inspection and examination by the Administrator or his duly authorized agent at all reasonable times.

(e) The books and accounts of the corporation shall be kept in accordance with the uniform system of accounting prescribed by the Administrator. The corporation shall file with the Administrator the following reports verified by the oath of such officer of the corporation as the Administrator may designate and in such form as prescribed by the Administrator:

(1) monthly occupancy reports;

(2) semi-annual reports to be filed within thirty (30) days after the end of each dividend period established in the certificate of incorporation;

(3) annual reports prepared by a certified public accountant, to be filed within sixty (60) days after the end of each fiscal year; and

(4) specific answers to questions upon which informaton is desired from time to time relative to the operation and condition of the property and the status of the insured mortgage.

5. *Control of funds during construction.*—Funds involved in the construction of a project representing security for an insured mortgage loan shall be subject to the following restrictions:

(a) Funds representing the required cash equity shall, as a condition precedent to the insurance of the mortgage, be placed in a special account with a depositary satisfactory to the Administrator and subject to withdrawal only upon written approval of the Administrator. Upon completion of construction to the satisfaction of the Administrator, any balance then remaining in such special account shall be paid over to the general account of the corporation for the purpose of establishing its reserves.

(b) No funds representing the proceeds of an insured mortgage shall be advanced except upon proper requisition approved by the Administrator.

(c) Assurance for the completion of the project must be approved by the Administrator prior to the insurance of the mortgage. The bond of a satisfactory surety company, in the standard A. I. A. form of construction bond and in an amount approved by the Administrator as sufficient to cover estimated disbursements under the construction contract for any two (2) month period, will be required, except that the Administrator may, depending upon the circumstances of each case, accept in lieu of such surety bond such alternate method of assuring completion as he may approve as adequate.

Section V. Eligible Mortgagees

1. The following are eligible for approval as mortgagees:

(a) A chartered institution or other permanent organization having succession.

(b) The Federal or a State Government, or an agency, instrumentality, or subdivision thereof.

(c) The holder or holders of a credit instrument or instruments given in connection with a mortgage, acting by and through a trustee appointed pursuant to the terms of such mortgage.

2. An eligible institution, organization, agency, or entity may become the mortgagee under an insured mortgage upon its approval as such at the time by the Administrator.

3. In the event that bonds are to be issued as a part of the insured mortgage transaction, all arrangements in respect to the issuance and sale of such bonds shall be subject to approval by the Administrator.

Section VI. Eligible Properties

1. In order for property to be eligible as the subject of an insured mortgage, such property must be held in fee simple, or under a lease for not less than ninety-nine (99) years which is renewable, or under a lease having not less than

fifty (50) years to run from the date the mortgage is insured. Such mortgage may also cover other property approved by the Administrator.

2. The property constituting security for the mortgage must be held by an eligible mortgagor as herein defined and must at the time the mortgage is accepted for insurance be free and clear of all liens other than that of such mortgage.

3. At the time the mortgage is insured:

(*a*) There shall be located on the mortgaged property housing accommodations which shall conform to standards satisfactory to the Administrator and may consist of a group of detached, semi-detached, or row houses, or multi-family dwellings; or

(*b*) The mortgagor shall be obligated to construct and complete such housing accommodations thereon and shall have furnished such assurance of the performance of such obligation as the Administrator may require.

Section VII. Title

1. In order to be eligible for insurance, the Administrator must determine that marketable title to the mortgaged property is vested in the mortgagor as of the date the mortgage is acceped for insurance. Title to property covered by the mortgage will be examined by the Administrator, and if found to be eligible such finding shall be recited in the contract of insurance and shall inure to the benefit of the mortgagee according to Paragraph 8 of Article VI of the Regulations.

2. Upon acceptance of the mortgage for insurance, the mortgagee, without expense to the Administrator, shall furnish to the Administrator a policy of title insurance as provided in subparagraph (*a*) of this paragraph, or, if the mortgagee is unable to furnish such policy for reasons satisfactory to the Administrator, the mortgagee, without expense to the Administrator, shall furnish such evidence of title as provided in subparagraphs (*b*), (*c*), or (*d*) of this paragraph, as the Administrator may require.

(*a*) A policy of title insurance with respect to such mortgage, issued by a company satisfactory to the Administrator. Such policy shall comply with the "L. I. C. Standard Mortgagee Form" or the "A. T. A. Standard Mortgagee Form", or such other form as may be approved by the Administrator and which offers substantially the same coverage under substantially the same conditions and stipulations; shall be payable to the mortgagee and the Administrator as their respective interests may appear; and shall become an owner's policy, running to the mortgagee as owner upon the acquisition of property by the mortgagee in extinguishment of the debt through foreclosure or by other means as provided in Paragraph 5 (*a*) of Article VI of the Regulations, and to the Administrator as owner upon the acquisition of the property by him pursuant to the mortgage insurance contract.

(*b*) An abstract of title satisfactory to the Administrator, prepared by an abstract company or individual engaged in the business of preparing abstracts of title, accompanied by a legal opinion satisfactory to the Administrator, as to the quality of such title, signed by an attorney at law experienced in the examination of titles.

(*c*) A Torrens or similar title certificate.

(*d*) Evidence of title conforming to the standards of a supervising branch of the Government of the United States of America, or of any State or Territory thereof.

If the title and title evidence are such as to be acceptable to prudent lending institutions and leading attorneys in the locality in which the property is situated, such title and title evidence will be satisfactory to the Administrator. The Administrator will not object to the title by reason of the following matters, provided they are not such as to impair the value of the property for insurance purposes, and provided they have been brought to his attention for consideration in fixing valuations:

(*a*) customary easements for public utilities, party walls, driveways, and other purposes, customary building or use restrictions for breach of which there is no reversion and which have not been violated to a material extent;

(*b*) such restrictions when coupled with a reversionary clause, provided there has been no violation prior to the date of the deed to the Administrator;

(*c*) slight encroachments by adjoining improvements;

(*d*) outstanding oil, water, or mineral rights, except those which include the right to sink wells or shafts on the subject property, withdraw the subjacent support, or otherwise impair the value of the property for residence purposes without payment of adequate damages.

Section VIII. Premiums

The contract of insurance shall provide for the payment by the mortgagee to the Administrator of an annual mortgage insurance premium at the rate of one-half of one per centum (½ of 1%) of the original principal face amount of the mortgage.

B. Small Scale Rental Projects

Section I. Eligible Mortgages

1. In order to be eligible for insurance under the provisions of this Part II–B, a mortgage shall not exceed a principal obligation of $200,000, and such part thereof as may be attributable to dwelling use shall not exceed $1,300 per room, depending upon the location of the project and local building costs and rental conditions. The principal obligation of such mortgage shall not exceed eighty per centum (80%) of the amount which the Administrator estimates will be the fair value of the property or project when completed.

2. The mortgage must be executed, upon a form approved by the Administrator for use in the jurisdiction in which the property covered by the mortgage is situated, by a mortgagor with the qualifications set forth in Section III of Part II–A of these Rules, and must be a first lien upon property that conforms with property standards prescribed by the Administrator.

3. The mortgage must have a maturity satisfactory to the Administrator, depending upon the risk involved and the general character of the project.

4. The mortgage may bear interest at such rate, not exceeding four and one-half per centum (4½%) per annum, as may be agreed upon between the mortgagor and the mortgagee. Interest shall be payable in monthly installments on the principal then outstanding. All charges made in connection with the mortgage transaction shall be subject to the approval of the Administrator.

5. The mortgage must contain amortization or sinking fund provisions satisfactory to the Administrator requiring monthly payments by the mortgagor. Such amortization payments shall commence not less than twelve (12) months nor more than eighteen (18) months from the date of the mortgage. The sum of the principal and interest payments in each month shall be substantially the same, except that prior to the required commencement of amortization payments, payments of interest alone shall be made. The mortgage shall provide for monthly payments by the mortgagor to the mortgagee of an amount equal to one-twelfth (1/12) of the annual mortgage insurance premium payable by the mortgagee to the Administrator. Such payments shall continue only so long as the contract of insurance shall remain in effect.

6. The mortgagee may charge the mortgagor the amount of any fee paid by the mortgagee to the Administrator on account of costs of appraisal and examination during construction as required by these Rules.

7. The provisions of Paragraphs 6 to 11, both inclusive, of Section II of Part II–A of these Rules shall be applicable to Small Scale Rental Projects insured under this Part II–B.

Section II. Regulation or Restriction of Mortgagors

The regulation or restriction of an eligible mortgagor of a Small Scale Rental Project shall be embodied in a contract to be executed by the mortgagor and the Administrator prior to the execution of the contract of insurance, except that regulation or restriction of dividends and provisions for reserves shall be by means of provisions satisfactory to the Administrator embodied in the certificate of incorporation of such mortgagor.

The provisions of Paragraphs 1 (Rents and Charges), 2 (Capital Structure), 3 (Rate of Return), 4 (Methods of Operation), and 5 (Control of Funds During Construction), of Section IV, Part II–A of these Rules, shall apply to mortgagors of projects insured under this Part II–B.

Section III

The provisions of Section I (Application and Commitment), Section III (Eligible Mortgagors), Section V (Eligible Mortgagees), Section VI (Eligible Properties), Section VII (Title), and Section VIII (Premiums), of Part II–A of these Rules, shall apply to Small Scale Rental Mortgages insured under this Part II–B.

PART II–C

PUBLIC HOUSING PROJECTS

Section I. Eligible Mortgagors

In order to be eligible as a mortgagor under this Part II–C a mortgagor must be either—

(*a*) a private limited dividend corporation organized under a State Housing Law;

(*b*) a municipal corporate instrumentality of one or more States;

(*c*) a State instrumentality; or

(*d*) a Federal instrumentality.

Section II. Regulation or Restriction

Since an eligible mortgagor under this Part II–C will be regulated or restricted by law as to rents, charges, capital structure, rate of return, and methods of operation, the regulation or restriction thus imposed will ordinarily be deemed sufficient to insure the economic operation of such projects and to meet the requirements of Section 207 of the Act. The Administrator may in unusual cases, however, further regulate and restrict as the particular case may require in such manner as may be agreed upon in advance by and between the mortgagor and the Administrator.

Public housing authorities or other governmental instrumentalities undertaking rental housing projects to be insured hereunder must have initial funds which may be considered in lieu of the equity required of private corporations. Such funds (which may be in the form of government loans, grants, or subsidies, or in other form) if sufficient in amount will be considered satisfactory provided they do not create a lien against the property prior to that of the insured mortgage. Liens inferior to the lien of the insured mortgage may be allowed against properties insured under this Part.

Section III

Additional Requirements

In the case of a Public Housing Project the Administrator shall determine in each case the fee to be paid on account of costs of appraisal and examination during construction. Such fee, however, shall not exceed $3.00 per thousand of the original principal face amount of the insured mortgage. Except as specifically modified by this Part, all of the applicable provisions of Parts II–A and II–B of these Rules, shall apply to mortgages on Public Housing Projects.

Effective Date

These Administrative Rules shall be effective as to all mortgages upon which insurance shall be issued on or after the date hereof. The Administrator with the consent of the mortgagor and the mortgagee may amend to conform to these Rules any contract of mortgage insurance issued prior to the date hereof.

Issued at Washington, D. C., *November 1, 1937.*

[SEAL] STEWART MCDONALD,
Federal Housing Administrator.

PART III

REGULATIONS

Article I

These Regulations may be cited and referred to as "Regulations of the Federal Housing Administrator for Rental Housing Insurance, revised November 1, 1937."

Article II. Definitions

As used in these Regulations—

1. The term "Administrator" means the Federal Housing Administrator.

2. The term "Act" means the National Housing Act, *as amended.*

3. The term "mortgage" means such a first lien upon real estate and other property as is commonly given to secure advances on, or the unpaid purchase price of, real estate under the laws of the jurisdiction where the real estate is situated, together with the credit instrument or instruments, if any, secured thereby.

4. The term "insured mortgage" means a mortgage accepted by the Administrator for insurance.

5. The term "mortgagor" means the original borrower under a mortgage and its successors and such of its assigns as are approved by the Administrator.

6. The term "mortgagee" means the original lender under a mortgage and its successors and assigns. The original lender may be a single entity acting in its own behalf or consist of one or more entities acting by and through a trustee appointed pursuant to the terms of the mortgage.

7. The term "contract of insurance" means the endorsement of the Administrator upon the credit instrument or instruments given in connection with the insured mortgage, together with the written instrument duly executed by the Administrator and the mortgagee, setting forth the terms, conditions, and provisions of insurance, which terms, conditions, and provisions shall be subject to these Regulations.

Article III. Premiums

1. The mortgagee shall pay to the Administrator the annual mortgage insurance premium established by the Administrator as a part of the contract of insurance in accordance with the Rules. The first such premium shall be paid on the date on which such insurance becomes effective, and the next and each succeeding premium shall be paid on the same date each year thereafter until the mortgage is paid in full, or the mortgaged property is acquired by the mortgagee and transferred to the Administrator as hereinafter set forth, or until the contract of insurance is otherwise terminated: *Provided, However,* That in event the mortgagee, after giving notice of default to the Administrator in accordance with the provisions of Paragraph 5 of Article VI of these Regulations, shall be prevented from instituting foreclosure proceedings or prosecuting such proceedings for a period in excess of ninety (90) days by virtue of any mortgage moratorium or similar law for the relief of debtors, the premium charge during the period in which the mortgagee is so prevented exclusive of such 90-day period shall be one per centum (1%) of the initial annual premium charge imposed for the insurance of the mortgage. The mortgagee shall establish to the satisfaction of the Administrator that it was so prevented for a period coexistent with the period during which the benefit of the reduced premium charge is claimed and the determination of the Administrator as to the precise duration of such period shall be final and conclusive.

2. In the event that the principal obligation of any mortgage accepted for insurance is paid in full prior to maturity, the mortgagee shall within thirty (30) days thereafter notify the Administrator of the date of prepayment and shall collect

from the mortgagor and pay to the Administrator a prepayment premium charge of one per centum (1%) of the original principal face amount of the prepaid mortgage, except that if at the time of such prepayment there is placed on the mortgaged property a new insured mortgage in an amount less than the original principal face amount of the prepaid mortgage, such prepayment premium shall be one per centum (1%) of the difference in such amounts.

In no event shall the prepayment premium exceed the aggregate amount of premium charges which would have been payable if the mortgage had continued to be insured until maturity.

No prepayment premium shall be collected by the mortgagee in the following cases:

(*a*) where at the time of such prepayment there is placed on the mortgaged property a new insured mortgage for an amount equal to or greater than the original principal face amount of the prepaid mortgage; or

(*b*) where the final maturity specified in the mortgage is accelerated solely by reason of partial prepayments made by the mortgagor which do not exceed in any one calendar year fifteen per centum (15%) of the original principal face amount of the mortgage; or

(c) where the final maturity specified in the mortgage is accelerated solely by reason of payments to principal to compensate for (1) damage to the mortgaged property, or (2) a release of a part of such property if approved by the Administrator; or

(d) where payment in full is made of a delinquent mortgage on which foreclosure proceedings have been commenced, or for the purpose of avoiding foreclosure, if the transaction is approved by the Administrator.

Upon such prepayment the contract of insurance shall terminate.

3. In the event that the Administrator terminates, under Paragraph 3 of Article VI, the insurance as to the group to which the insured mortgage is assigned, the mortgagee shall pay to the Administrator an amount equal to that proportion of the annual insurance premium which would otherwise have been payable for the period between the date to which the premium has been paid and the maturity date of the mortgage.

Article IV. Acceptance for Insurance

1. Upon accepting a mortgage for insurance, the Administrator and the mortgagee shall execute the contract of insurance and the mortgage shall be an insured mortgage from the effective date of such contract. The Administrator shall also endorse the original credit instrument or instruments with a reference to such insurance contract. The Administrator and the mortgagee shall thereafter be bound by the contract of insurance, subject to the provisions of these Regulations which shall form part of each such contract.

Article V. Classification of Mortgages

1. Mortgages accepted for insurance shall be so classified into groups that the mortgages in any group shall involve substantially similar risk characteristics and have similar maturity dates.

2. Premium charges received for the insurance of any mortgage, the receipts derived from the property covered by the mortgage and claims assigned to the Administrator in connection therewith, and all earnings on the assets of the group account shall be credited to the account of the group to which the mortgage is assigned.

3. The principal of, and interest paid or to be paid on, debentures issued in exchange for any property, payments made or to be made to the mortgagee and mortgagor, and expenses incurred in the handling of the property originally covered by the mortgage and in collection of claims assigned to the Administrator in connection therewith, shall be charged to the account of the group to which such mortgage is assigned.

Article VI. Rights and Duties of a Mortgagee Under the Contract of Insurance

1. Whenever the credit balance in the account of the group to which the insured mortgage has been assigned exceeds the remaining unpaid principal of the then outstanding mortgages assigned to such group by an amount equal to ten per centum (10%) of the total premium payments which have theretofore been credited to such account, the Administrator shall terminate the insurance as to that group of mortgages by paying to each of the mortgagees holding an outstanding mortgage assigned to such group a sum sufficient to pay off the unpaid principal of such mortgage coming due after the date of such termination, the payment in each case being for the benefit and account of the mortgagor. Such termination, however, shall not affect or impair any right or claim of a mortgagee arising from any default on the part of the mortgagor in complying with the terms, provisions, and covenants of the mortgage or other happening occurring prior to the date of such termination, and the mortgagee in such case upon complying with the terms and provisions of the contract of insurance shall be entitled to receive debentures and a certificate of claim as provided in Paragraph 6 of this Article.

2. The mortgagee shall accept such payment and apply it in satisfaction of the obligation of the mortgagor under the insured mortgage. If such payment is sufficient to satisfy the obligation of the mortgagor under the mortgage in full, the mortgagee shall coincidentally deliver to the mortgagor such instruments as may be necessary or proper to discharge the insured mortgage.

3. If the credit balance in the account of the group to which the insured mortgage is assigned fails to exceed, at the beginning of the final year prior to the maturity date of the mortgages assigned to such group, the remaining unpaid principal of the then outstanding mortgages assigned to such group by an amount equal to ten per centum (10%) of the total premium payments which have theretofore been credited to such account, the Administrator shall terminate the insurance as to that group of mortgages (1) by transferring to the general reinsurance account an amount equal to ten per centum (10%) of the total premium charges theretofore credited to such group account, and (2) by distributing for the benefit and account of the mortgagors under the mortgages hereinafter mentioned the remainder of such credit balance, if any, pro rata to the mortgagees holding such then outstanding mortgages. Such termination, however, shall not affect or impair any right or claim of a mortgagee arising from any default on the part of the mortgagor in complying with the terms, provisions, and covenants of the mortgage or other happening occurring prior to the date of such termination, and the mortgagee in such case upon complying with the terms and provisions of the contract of insurance shall be entitled to receive debentures and a certificate of claim as provided in Paragraph 6 of this Article.

4. If the mortgagor pays the insured mortgage in full prior to its final maturity date, and pays to the mortgagee the premium charge provided for in Paragraph 2 of Article III hereof, the Administrator shall thereupon pay over to the mortgagor such share of the credit balance of the account of the group to which the insured mortgage has been assigned as the Administrator shall determine to be equitable and not inconsistent with the preservation of the solvency of such account and of the Mutual Mortgage Insurance Fund.

5. If the mortgagor fails to make any payment to the mortgagee required by the mortgage, or to perform any other covenant or obligation under the mortgage, and such failure continues for the period of grace, if any, set forth in the mortgage, the mortgage shall be considered in default, and the mortgagee, within the period set forth in the contract of insurance after the occurrence of a default arising on account of such failure to make any such payment or within the period set forth in the contract of insurance after the mortgagee shall have knowledge of the occurrence of a de-

fault arising on account of such failure to perform any other covenant or obligation under the mortgage, shall give notice in writing to the Administrator of such default. At any time within the period set forth in the contract of insurance from the date of such notice, the mortgagee, at its election, shall either—

(*a*) with, and subject to, the consent of the Administrator, acquire by means other than foreclosure of the mortgage, possession of, and title to, the mortgaged property; or

(*b*) institute proceedings for the foreclosure of the mortgage: *Provided*, That if the laws of the state in which the mortgaged property is situated do not permit the institution of such proceedings within such period of time, the mortgagee shall institute such proceedings within thirty (30) days after the expiration of the time during which the institution of such proceedings is prohibited by such laws.

Nothing contained in this Paragraph 5 shall be construed so as to prevent the mortgagee from taking action at a later date than herein specified, provided the Administrator so agrees in writing.

The mortgagee shall promptly give notice in writing to the Administrator of the institution of foreclosure proceedings and shall exercise reasonable diligence in prosecuting such proceedings to completion.

6. If the mortgagee has complied with the provisions of Paragraph 5 of this Article, and at any time within thirty (30) days (or such further time as may be allowed by the Administrator in writing) after acquiring title to and possession of the mortgaged property in accordance with Paragraph 5 of this Article, tenders to the Administrator possession of, and a deed containing a covenant which warrants against acts of the mortgagee and all claiming by, through, or under it conveying title satisfactory to the Administrator as provided in Paragraph 8 of this Article to, such property, free and clear of all liens and encumbrances which may have attached subsequent to the date on which the mortgage was accepted for insurance, including all past due and unpaid ground rents, general taxes, or special assessments, and assigns (without recourse or warranty) any and all claims which it may have acquired in connection with the mortgage transaction and as a result of the foreclosure proceedings or other means by which it acquired such property, including any claim on account of title insurance and fire, or other hazard insurance, the Administrator shall promptly accept conveyance of such property and such assignment, notwithstanding that the buildings or improvements thereon may be incomplete or may have been destroyed, damaged, or injured, in whole or in part, and shall deliver to the mortgagee—

(*a*) Debentures of the Mutual Mortgage Insurance Fund as set forth in Section 204 (b) of the Act, bearing interest at the rate of three per centum (3%) per annum, and in a principal amount equal to the value of the mortgage as defined in Section 204 (a) of the Act, to wit, the principal of the mortgage which is unpaid at the date of conveyance to the Administrator (exclusive of all sums which might otherwise be credited to the mortgagor or deemed "paid" on account of such principal through acquisition of the mortgaged property by foreclosure or other means as set forth in Paragraph 6 of this Article), plus all taxes, assessments, and water rents which are prior liens upon the mortgaged premises and premiums for insurance against fire or other hazard paid by the mortgagee during the period between the date of default and the date of such conveyance and assignment to the Administrator, and interest on such unpaid principal from the date foreclosure proceedings were instituted, or the property was otherwise acquired as provided in Paragraph 5 (a) of this Article, to the date of such conveyance at the rate of three per centum (3%) per annum, less any amount received on account of interest accrued on such unpaid principal between such dates; and

(*b*) A certificate of claim in accordance with Section 204 (c) of the Act, which shall become payable, if at all, upon the sale of the property covered by the insured mortgage in accordance with Section 204 (d) of the Act which provides as follows: "If the net amount realized from any property conveyed to the Administrator under this section and the claims assigned therewith, after deducting all expenses incurred by the Administrator in handling, dealing with, and disposing of such property and in collecting such claims, exceeds the face amount of the debentures issued in exchange for the mortgage covering such property plus all interest paid on such debentures, such excess shall be divided as follows:

(1) If such excess is greater than the total amount payable under the certificate of claim issued in connection with such property, the Administrator shall pay to the holder of such certificate the full amount so payable; and any excess remaining thereafter shall be paid to the mortgagor of such property.

(2) If such excess is equal to or less than the total amount payable under such certificate of claim, the Administrator shall pay to the holder of such certificate the full amount of such excess.

This certificate shall be for an amount which the Administrator shall determine to be sufficient to pay costs of foreclosure, or such other proceedings, including reasonable attorneys' fees, unpaid interest, and any other amounts due under the mortgage and not covered by the amount of the debentures. Each such certificate of claim shall provide that there shall accrue to the holder of such certificate with respect to the fact amount of such certificate an increment at the rate of three per centum (3%) per annum.

7. In the event that the mortgagee fails to comply with the provisions of Paragraphs 5 and 6 of this Article, then the contract of insurance shall thereupon terminate, and the mortgagor shall be entitled to receive a share of the credit balance of the account of the group to which the mortgage has been assigned, in such amount as the Administrator shall determine to be equitable and not inconsistent with the preservation of the solvency of such account and of the Mutual Mortgage Insurance Fund.

8. Title satisfactory to the Administrator within the meaning of Section 204 (a) of the Act will be a marketable title. Such marketable title as was determined to be vested in the mortgagor by the Administrator pursuant to Section VII of Part II–A of the Administrative Rules of the Federal Housing Administrator for Rental Housing Insurance, revised November 1, 1937, as of the date the mortgage was accepted for insurance, will be accepted as satisfactory under Section 204 (a) of the Act, for conveyance to the Administrator by deed as provided in Paragraph 6 of this Article, unless such title is impaired by any act or omission of the mortgagee or other event occurring subsequent to the date of the acceptance of the mortgage for insurance: *Provided*, That the Administrator will not object to the title because of mechanics' liens excepted from the title evidence, as unfiled at the date of the recording of the mortgage or of any advance thereunder, provided that advances under the mortgage are disbursed with the approval of the Administrator and that the certification of a title insurer or title attorney satisfactory to the Administrator be obtained to the effect that, as of the date of each advance, no lien appeared of record and the title policy or title opinion had been extended accordingly.

9. The mortgagee, at the time a deed is tendered in accordance with Paragraph 6 of this Article, shall furnish without expense to the Administrator satisfactory evidence that such marketable title as was found by the Administrator to be vested in the mortgagor as of the date the mortgage was acceped for insurance is not, at the time a deed is tendered as aforesaid, impaired by any act or omission of the mortgagee or other event occurring subsequent to the date the mortgage was accepted for insurance. Such evidence may be a policy of title insurance issued by a company and in owner form satisfactory to the Administrator, and payable to the Administrator, and effective as of a date subsequent to the

recording of the deed to the Administrator, or such evidence may be in form satisfactory to the Administrator as provided in subparagraphs (*b*), (*c*), or (*d*) of Section VII of Part II–A of the Administrative Rules.

10. The Administrator will accept title from the mortgagee subject to building or use restrictions or reversionary clauses for the breach of such restrictions, if such restrictions have not been violated prior to the date of the deed to the Administrator.

11. The mortgagee without cost or expense to the Administrator shall, in default of the mortgagor, keep the mortgaged premises insured against fire and other hazard as provided in the mortgage. In the event the mortgagee fails to pay any premiums necessary to keep the mortgaged premises so insured and such failure shall continue for a period of time set forth in the contract of insurance after receipt of written notice of such failure from the Administrator to the mortgagee, then the contract of insurance shall, at the election of the Administrator, thereupon terminate, and the mortgagor shall be entitled to receive a share of the credit balance of the account of the group to which the mortgage has been assigned, in such amount as the Administrator shall determine to be equitable and not inconsistent with the preservation of the solvency of such account and of the Mutual Mortgage Insurance Fund. In the event a loss has occurred to the mortgaged property under any policy of fire or other hazard insurance and the amount of any funds received by the mortgagee in payment of such loss shall be sufficient to pay in full the entire mortgage indebtedness, the said mortgage shall, upon receipt of such funds by the mortgagee, be deemed paid and the contract of insurance made with the Administrator shall thereupon terminate. If, however, any funds so received shall be insufficient to pay such mortgage indebtedness in full, the mortgagee shall not exercise its option under the mortgage to use the proceeds of such insurance for the repairing, replacing, or rebuilding of such premises or to apply such proceeds to the mortgage indebtedness without the prior written approval of the Administrator. If the Administrator shall fail to give his approval to the use or application of such funds for either of said purposes within fifteen (15) days after written request by the mortgagee, the mortgagee may use or apply such funds for any of the purposes specified in the mortgage without the approval of the Administrator.

Article VII. Assignments

1. Bonds or other obligations issued in connection with an insured mortgage executed in the form of an indenture of trust providing for the issue and sale of such bonds or other obligations and appointing a trustee to act on behalf of the holders of such bonds or other obligations may be transferred as provided in the indenture of trust.

2. An insured mortgage other than a mortgage executed in the form of an indenture of trust providing for the issue and sale of bonds or other obligations and appointing a trustee to act on behalf of the holders of such bonds or other obligations may be transferred to a transferee who may be a mortgagee previously approved by the Administrator or who may be approved at the time of such transfer as a mortgagee responsible and able to service such insured mortgage. Upon such approval and transfer the transferor shall be released from its obligations under the contract of insurance.

3. The contract of insurance shall terminate with respect to mortgages described in Paragraph 2 of this Article upon the happening of either of the following events:

(*a*) The acquisition of the insured mortgage by or the pledge thereof to any person, firm, or corporation, public or private, except as specifically provided in Paragraphs 1 and 2 of this Article.

(*b*) The disposal by a mortgagee of any partial interest in the insured mortgage by means of a declaration of trust or by a participation or trust certificate or by any other device except as specifically provided in Paragraph 1 of this Article.

Upon the termination of the insurance under this Paragraph 3 the mortgagor shall be entitled to receive a share of the credit balance of the account of the group to which the insured mortgage has been assigned, in such amount as the Administrator shall determine to be equitable and not inconsistent with the preservation of the solvency of such account and of the Mutual Mortgage Insurance Fund.

Article VIII. Vested Rights

Neither the mortgagee nor the mortgagor shall have any vested right in the Mutual Mortgage Insurance Fund, and the determination by the Administrator as to the amount payable out of such fund to or for the benefit of the mortgagee and mortgagor under these Regulations shall be final and conclusive as to all parties.

Article IX. Amendments

These Regulations may be amended by the Administrator at any time and from time to time, in whole or in part, but such amendment shall not affect the contract of insurance on any mortgage already insured or any mortgage or prospective mortgage on which the Administrator has made a commitment to insure.

Article X. Effective Date

These Administrative Regulations are effective as to all mortgages upon which insurance shall be issued on or after the date hereof.

Issued at Washington D. C., *November 1, 1937.*

[SEAL] STEWART MCDONALD,
Federal Housing Administrator.

PART IV

PROJECT STANDARDS

The National Housing Act requires the administrator to find that the project with respect to which a mortgage is to be executed is economically sound, as a prerequisite to his insurance of such mortgage. The following criteria will guide the Administrator in forming his opinion as to the economic soundness of any project:

1. *Community.—*

(*a*) A satisfactory economic background in general and specifically with reference to sources of employment for the population group for which the housing accommodations are intended.

(*b*) Existence of a need for dwellings meeting approved physical standards, and available for rent at prices within the limitations set forth elsewhere in the Rules and Regulations, and also within the rent paying capacity of the income group the project is designed to serve.

(*c*) The financial condition and administration of the community, with particular reference to the possibility of excessive tax burdens or increased tax rates; the probability of future special assessments and the general tendency in the community with respect to the placing of further levies, and the relation of such added burdens to the sums likely to be available to meet them.

2. *The neighborhood.—*

(*a*) Appropriate neighborhood zoning, or other regulation of land use; character and age of the neighborhood, its prospective trend of development, and conformity of the proposed improvement thereto; future of the neighborhood as influenced by present or prospective improvements external thereto; and by present or possible inharmonious land uses within it.

(*b*) Size of the proposed project as a factor in influencing neighborhood development and stabilizing, modifying, or reversing discernible trends; relation of the neighborhood and the project to community plans tending to promote homogeneity of land use, permanent population betterments, and the rehabilitation of blighted or slum areas.

(c) Conformity of the project and its prospective tenants to the needs and characteristics of predominant ethnic groups nearby; probable long term immunity of the neighborhood from adverse influences.

(d) Accessibility of the neighborhood to churches and to centers of employment, trade, education, and recreation; adequacy and economy of public means of transit, and conformity of the project to local custom and habit as regards transportation.

3. *The site.*—

(a) Freedom from adjacent adverse influences either topographic, industrial, or psychological.

(b) Adequate and acceptable local land planning, or possibility of modifications thereof.

(c) Freedom from flood danger or other hazards; satisfactory and non-costly foundation conditions; the presence nearby of all necessary utility connections; and topographic adaptability, within the property lines, to the intended use.

(d) General conformity of the proposed improvement to the discernible real estate characteristics of the site, and to appropriate densities, rents, layouts, and type of structure as indicated by these characteristics.

4. *The buildings.*—

(a) Open land within the project shall be so distributed as to avoid narrow courts and to assure adequate light and air, and a satisfactory outlook for all rooms. Net lot coverage must be kept to the minimum consistent with a sound project based on a reasonable land value. Densities should not ordinarily exceed eight (8) families per gross acre for free standing houses, fifteen (15) families per gross acre for grouped or row houses, and one hundred (100) families per gross acre for multiple family dwellings.

(b) Buildings not over three stories in height are preferred, and no walkup may exceed four stories. Elevators will be required for buildings of greater height which will be acceptable only if appropriate to the location.

(c) Conformity of the land use, buildings and all accessory features with the requirements of all applicable laws, ordinances, and regulations relating to the utilization of land and the safety and sanitation of buildings.

(d) Suitability of the type of construction to the general plan of housing proposed. (Generally, preference will be given to buildings promising slow depreciation and moderate maintenance costs.)

(e) Economical layouts (high ratio of usable building area to gross building area; cross ventilation in a maximum of the dwelling units; privacy of sleeping quarters under maximum possible use of dwelling units; avoidance of narrow courts and shafts.

(f) Suitability of the buildings as quarters for families of average size.

Layouts containing not less than three habitable rooms and one bathroom should be heavily predominant, but a small proportion of smaller units may be included. One of the habitable rooms shall have a floor area of not less than one hundred sixty (160) square feet; one a floor area of not less than one hundred (100) square feet; and one a floor area of not less than seventy (70) square feet; except that a kitchen may have a floor area of not less than fifty (50) square feet. Buildings of the corridor-type plan will ordinarily not be approved for mortgage insurance.

5. *Finance and operation.*—

(a) Relation of rental levels of the project to the existing pattern of rentals in the community.

(b) Adequacy of the estimation of costs of administration, operation, and maintenance in conformity with local prices and conditions.

(c) Reasonableness of assumptions as to occupancy ratio in relation to a long-term expectancy.

(d) Possibility of accumulating a surplus in excess of dividend requirements after all expenses and the service of the mortgage.

(e) Land valued to conform to the local pattern of land values and to a capitalized value as determined by the residuals of gross income available for such capitalization.

(f) Sufficiency of the cash and other equity in the project to provide for all improvement costs above the mortgage and to assure continuing interest in the project by the sponsors.

(g) Provisions for a continuing and responsible management organization.

(h) Experience and responsibility of the proposed contractor.

[F. R. Doc. 37-3315; Filed, November 13, 1937; 12:12 p. m.]

FEDERAL POWER COMMISSION.

Commissioners: Clyde L. Seavey, Acting Chairman; Claude L. Draper, Basil Manly, John W. Scott.

[Docket No. D. I.-131]

IN RE DECLARATION OF INTENTION OF PLATTE VALLEY PUBLIC POWER AND IRRIGATION DISTRICT

ORDER SETTING DATE OF FURTHER HEARING; ALLOWING INTERVENTION

Upon declaration of intention filed January 5, 1934, and supplemented July 6, 1936, by Platte Valley Public Power and Irrigation District (hereinafter referred to as "declarant") and the petition filed May 14, 1937, by The Central Nebraska Public Power and Irrigation District (hereinafter referred to as "petitioner") requesting that it be allowed to intervene and present testimony in respect of the said declaration of intention:

It appears:

(1) That a copy of said petition to intervene was served on the declarant on May 15, 1937.

(2) That on May 17, 1937, declarant, by telegram, challenged the petitioner's right to intervene and the allegations of the petition and requested opportunity to file a formal pleading thereto;

(3) That at the hearing on said declaration of intention held May 17, 1937, pursuant to Commission order of March 23, 1937,[1] after appropriate notice was duly given to the declarant, declarant failed to appear;

(4) That petitioner introduced testimony at said hearing upon the understanding that the same would be stricken from the record if the petition of intervention should be disallowed by the Commission, and the hearing was recessed subject to the further order of the Commission;

(5) That on May 17, 1937, the date of said hearing, Elm Creek Ditch Company, Gothenburg Ditch Company, Dawson County Irrigation Company, Thirty-mile Canal Company, Cozad Ditch Company, Six-mile Canal Company, Southside Irrigation Company, and Kearney Mutual Irrigation Company (hereinafter referred to as "protestants"), by telegram, informed the Commission that they had contracts approved by the Federal Government for all of the water of Sutherland District (declarant's project) for thirty years, and requested that they be afforded an opportunity to intervene in protection of their rights and that no order be made permitting intervention by other districts until they had been afforded an opportunity to object and to be heard; but said protestants were not otherwise represented at the hearing;

(6) That on June 16, 1937, the Commission addressed a telegram to the declarant as follows:

"Commission desires to afford you every reasonable opportunity to be heard further in this matter consistent with closing record within thirty days. Do you still wish to be heard in answer and argument against allowing intervention of Central Nebraska, or to present rebuttal testimony? Or perhaps having examined record made at recent hearing

[1] 2 F. R. 693 (DI).

you are content to rely upon record already made. Please wire reply";

(7) That on the same date the Commission addressed a telegram to the protestants informing them of the limited nature of the present proceeding and requesting that they reply by wire whether they still desired to intervene and be heard upon the single question then pending; but no further communication has been received either from the declarant or from the eight protestants;

From the record herein the Commission finds:

(1) That the project works of the petitioner and of the declarant are contiguous and complementary; the petitioner has such an interest as entitles it to intervene in the proceedings on said declaration of intention, DI–131, and the testimony introduced by the petitioner should stand as a part of the record thereon;

(2) That the protestants, after full opportunity, have not complied with the Commission's Rules of Practice and Regulations governing filing of petitions of intervention and hence are not yet entitled to be permitted to intervene;

The Commission orders:

(A) That the petitioner be and it hereby is allowed to intervene and the evidence introduced by it at said hearing is admitted as a part of the record in the proceedings on said declaration of intention;

(B) That a further public hearing on the said declaration of intention and the said petition for intervention be held on December 8, 1937, at 10 a. m., in the hearing room of the Commission in the Hurley-Wright Building, 1800 Pennsylvania Avenue NW., Washington, D. C., for the following purposes, to wit:

(1) To afford the declarant opportunity to offer such additional pertinent evidence as it may desire and particularly in rebuttal of the evidence given at the said hearing held may 17, 1937, on behalf of the petitioner, now the intervenor, Central Nebraska Public Power and Irrigation District;

(2) To afford opportunity to said protestants, Elm Creek Ditch Company, Gothenburg Ditch Company, Dawson County Irrigation Company, Thirty-mile Canal Company, Cozad Ditch Company, Six-mile Canal Company, Southside Irrigation Company, and Kearney Mutual Irrigation Company, to present their respective petitions for intervention with evidence in support thereof;

(C) That the declarant and the petitioner (now the intervenor), as well as the eight protestants hereinbefore named as having requested an opportunity to intervene, be each notified by registered mail immediately (a copy of this order to be enclosed with each notice) that immediately following the adjournment of the further hearing to be held as aforesaid on December 8, 1937, the record on the said declaration of intention, the petition or petitions for intervention, and the hearings held thereon will be closed and the matter thereupon submitted to the Commission for its findings as provided by the Federal Power Act.

Adopted by the Commission on November 9, 1937.

[SEAL] LEON M. FUQUAY, *Secretary.*

[F. R. Doc. 37–3312; Filed, November 13,1937; 9:29 a. m.]

INTERSTATE COMMERCE COMMISSION.

At a session of the Interstate Commerce Commission, Division 4, held at its office in Washington, D. C., on the 16th day of October, A. D. 1937.

ORDER IN THE MATTER OF ANNUAL REPORTS FROM CARRIERS BY PIPE LINE

The subject of the requirement of annual reports from carriers by pipe line being under consideration:

It is ordered:

1. That the order of this Commission dated November 6, 1936,[1] In the Matter of Annual Reports from Carriers by Pipe Line, is hereby annulled.

2. That all Carriers by Pipe Line subject to the provisions of the Interstate Commerce Act be and they hereby are, required to file an annual report for the year ending December 31, 1937, and for each succeeding year until further order, in accordance with Annual Report Form P (Carriers by Pipe Line), which is hereby approved and made a part of this order.

It is further ordered, That the annual report shall be filed, in duplicate, in the Bureau of Statistics, Interstate Commerce Commission, Washington, D. C., on or before March 31, of the year following the one to which it relates.

By the Commission, division 4.

[SEAL] W. P. BARTEL, *Secretary.*

[F. R. Doc. 37–3317; Filed, November 15, 1937; 12:14 p. m.]

At a Session of the Interstate Commerce Commission, Division 4, held at its office in Washington, D. C., on the 20th day of October, A. D. 1937.

ORDER IN THE MATTER OF ANNUAL REPORTS FROM CARRIERS BY WATER

The subject of the requirement of annual reports from carriers by water being under consideration:

It is ordered:

1. That the order of this Commission dated November 19, 1936,[2] In the Matter of Annual Reports from Carriers by Water, is hereby annulled.

2. That all Carriers by Water subject to the provisions of the Interstate Commerce Act be and they hereby are, required to file an annual report for the year ending December 31, 1937, and for each succeeding year until further order, in accordance with Annual Report Form K (Carriers by Water) which is hereby approved and made a part of this order.

It is further ordered, That the annual report shall be filed, in duplicate, in the Bureau of Statistics, Interstate Commerce Commission, Washington, D. C., on or before March 31 of the year following the one to which it relates.

By the Commission, division 4.

[SEAL] W. P. BARTEL, *Secretary.*

[F. R. Doc. 37–3318; Filed, November 15, 1937; 12:14 p. m.]

At a session of the Interstate Commerce Commission, Division 4, held at its office in Washington, D. C., on the 23rd day of October, A. D. 1937.

ORDER IN THE MATTER OF ANNUAL REPORTS FROM LESSORS TO STEAM RAILWAY COMPANIES

The subject of the requirement of annual reports from lessors to steam railway companies being under consideration:

It is ordered:

1. That the Order of this Commission dated January 7, 1937,[3] In the Matter of Annual Reports from Lessors to Steam Railway Companies is hereby annulled.

2. That all Lessors to steam railway companies subject to the provisions of the Interstate Commerce Act be, and they hereby are, required to file an annual report for the year ending December 31, 1937, and for each succeeding year until further order, in accordance with Annual Report Form E (Lessor Companies), which is hereby approved and made a part of this order.

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[1] 1 F. R. 2009.
[2] 1 F. R. 2044.
[3] 2 F. R. 83 (DI).

It is further ordered, That the annual report shall be filed, in duplicate, in the Bureau of Statistics, Interstate Commerce Commission, Washington, D. C., on or before March 31, of the year following the one to which it relates.

By the Commission, division 4.

[SEAL] W. P. BARTEL, *Secretary.*

[F. R. Doc. 37-3319; Filed, November 15, 1937; 12:14 p. m.]

At a Session of the Interstate Commerce Commission, Division 4, held at its office in Washington, D. C., on the 28th day of October, A. D. 1937.

IN THE MATTER OF ANNUAL REPORTS FROM ELECTRIC RAILWAYS

The subject of the requirement of annual reports from Electric Railway Companies being under consideration:

It is ordered:

1. That the order of this Commission dated November 19, 1936,[1] in the matter of annual reports from Electric Railways, is hereby annulled.

2. That all Electric Railway Companies subject to the provisions of the Interstate Commerce Act be, and they hereby are, required to file an annual report for the year ending December 31, 1937, and for each succeeding year until further order, in accordance with Annual Report Form G, (Electric Railways), which is hereby approved and made a part of this order.

It is further ordered, That the annual report shall be filed, in duplicate, in the Bureau of Statistics, Interstate Commerce Commission, Washington, D. C., on or before March 31 of the year following the one to which it relates.

By the Commission, division 4.

[SEAL] W. P. BARTEL, *Secretary.*

[F. R. Doc. 37-3320; Filed, November 15, 1937; 12:14 p. m.]

At a General Session of the Interstate Commerce Commission, held at its office in Washington, D. C., on the 8th day of November, A. D. 1937.

[Ex Parte No. 122]

ORDER RELATING TO COST FINDING IN TRANSPORTATION SERVICE

It appearing, That the National Industrial Traffic League has requested this Commission to give consideration to the report entitled "Cost Finding in Railway Freight Service for Regulatory Purposes," issued by the Federal Coordinator of Transportation in June, 1936, which sets forth a plan for obtaining information necessary for the determination of railway costs, based upon the results of a study made under his direction in accordance with the provisions of Section 13 of the Emergency Railroad Transportation Act, 1933; and

It further appearing, That this Commission has before it proceedings in which the parties are endeavoring to determine the costs of railway, highway, and waterway transportation; and

It further appearing, That the Railroad Commission of Texas, through the Director of its Pipe Line Department, has asked for the cooperation of this Commission in the development of cost finding methods for transportation by pipe line; and

It further appearing, That in cases before this Commission the parties are presenting evidence as to transportation costs incurred within State boundaries, obtained by apportioning transportation system expenses to the various States served without uniformity in the methods used for such apportionments:

It is ordered, That a proceeding of investigation and inquiry be, and it is hereby, instituted by this Commission on its own motion into and concerning cost finding in transportation service with a view to determining whether the Commission shall require all or any common and contract carriers subject to part I or part II of the Interstate Commerce Act to file special or annual reports for cost finding purposes in accordance with the plan recommended by the Federal Coordinator of Transportation, and hereinbefore referred to, or some other plan, and to prescribe such forms of accounts, records or memoranda, to be kept by all or any said carriers, as may be necessary or desirable in connection therewith.

It is further ordered, That notice of this proceeding be given to such carriers and other interested parties by such means as the Commission may hereafter adopt and use for that purpose, including the posting of a notice in the office of the Commission's Secretary.

And it is further ordered, That this proceeding be assigned for hearing at such time and place as the Commission may hereafter direct.

By the Commission.

[SEAL] W. P. BARTEL, *Secretary.*

[F. R. Doc. 37-3321; Filed, November 15, 1937; 12:15 p. m.]

[1] 1 F. R. 2044.

SECURITIES AND EXCHANGE COMMISSION.

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission held at its office in the City of Washington, D. C., on the 15 day of November, A. D. 1937.

[File No. 43-90]

IN THE MATTER OF SOUTHWESTERN DEVELOPMENT COMPANY

NOTICE OF AND ORDER FOR HEARING

A declaration having been duly filed with this Commission, by Southwestern Development Company, a registered holding company, pursuant to Section 7 of the Public Utility Holding Company Act of 1935, in regard to the issuance and distribution as a dividend to the common stockholders of the declarant of $2,040,300 of its own Unsecured 4% Promissory Notes, due July 1, 1943;

It is ordered, That a hearing on such matter be held on December 1, 1937, at ten o'clock in the forenoon of that day at Room 1101 Securities and Exchange Building, 1778 Pennsylvania Avenue NW., Washington, D. C.; and

Notice of such hearing is hereby given to said party and to any interested State, State commission, State securities commission, municipality, and any other political subdivision of a State, and to any representative of interested consumers or security holders, and any other person whose participation in such proceeding may be in the public interest or for the protection of investors or consumers. It is requested that any person desiring to be heard or to be admitted as a party to such proceeding shall file a notice to that effect with the Commission on or before November 26, 1937.

It is further ordered, That Charles S. Lobingier, an officer of the Commission, be and he hereby is designated to preside at such hearing, and authorized to adjourn said hearing from time to time, to administer oaths and affirmations, subpena witnesses, compel their attendance, take evidence, and require the production of any books, papers, correspondence, memoranda, contracts, agreements, or other records deemed relevant or material to the inquiry, and to perform all other duties in connection therewith authorized by law.

Upon the completion of the taking of testimony in this matter, the officer conducting said hearing is directed to close the hearing and make his report to the Commission.

By the Commission.

[SEAL] FRANCIS P. BRASSOR, *Secretary.*

[F. R. Doc. 37-3330; Filed, November 15, 1937; 12:44 p. m.]

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission held at its office in the City of Washington, D. C., on the 11th day of November, A. D., 1937.

IN THE MATTER OF THE AUTOLINE OIL COMPANY PREFERRED CAPITAL STOCK, $10 PAR VALUE COMMON CAPITAL STOCK, $10 PAR VALUE

ORDER TO SHOW CAUSE AND FOR HEARING, DESIGNATING OFFICER AND TIME AND PLACE FOR TAKING TESTIMONY

Whereas The Autoline Oil Company, a corporation, is the issuer of Preferred Capital Stock, $10 Par Value, and Common Capital Stock, $10 Par Value; and

Whereas said The Autoline Oil Company registered such securities on the Baltimore Stock Exchange, by filing on or about June 27, 1935, an application with the said Exchange and with the Commission pursuant to Section 12 (b) of the Securities Exchange Act of 1934, as amended, and pursuant to Rule JB1, as amended, and Rule JB3, as amended, promulgated by the Commission thereunder; and

Whereas said Rule JB1, as amended, at the time said application was filed and at all subsequent times did and does require such application to be filed on Form 10 for Corporations; and

Whereas in accordance with the provisions of Form 10 for Corporations, and the Instructions and Rules and Regulations of the Commission supplemental thereto, as amended, as to the use of said Form 10 for Corporations, in effect both at the time said application was filed and at all subsequent times, Item 36 of said form did and does require that Schedules numbered I to IX, inclusive, in the form and manner prescribed by the Instruction Book for Form 10 for Corporations be furnished where applicable and reference thereto made on the face of the balance sheet and profit and loss statement in appropriate places; and further, Item 36 of said form did and does require the registrant to submit financial statements certified in accordance with and in the manner prescribed by the Instruction Book for Form 10 for Corporations; and Exhibit "B" did and does require copies of all indentures and amendments thereof relating to the authorized funded debt of the registrant, set forth in answer to Item 13 (a); and whereas Rule JB3, as amended, requires that every amendment to an application for registration pursuant to Rule JB1 shall be filed with the Exchange and the Commission on Form 8; and

Whereas said The Autoline Oil Company has failed to comply with the provisions of said Section 12 (b) of said Securities Exchange Act, as amended, with the provisions of said Rule JB1, as amended, said Rule JB3, as amended, and with the provisions of said Form 10 for Corporations, and with the provisions of said Instructions and Rules and Regulations of the Commission supplemental thereto, as amended, in that neither the application filed by it for registration of said securities on said Exchange pursuant to said Section 12 (b) nor any amendment thereto contains

(1) Schedules IV, V, VI and VII pursuant to the Instructions to Item 36, although required by the Rules and Regulations of the Commission;

(2) An accountant's certificate pursuant to the Instructions to Item 36 and conforming to the applicable requirements as set forth in the Instructions, the accountant's certificate submitted certifying only to the fact that "Attached balance sheet and statement of income and profit and loss of The Autoline Oil Company for the year ended December 31, 1934 is a true copy of the statements included in a report dated March 7, 1935, rendered by Elmer L. Hatter, Certified Public Accountant, deceased, and are subject to the qualifications contained in that report"; or an explicit statement in lieu of the omitted material, setting forth the reasons why the information is neither known nor available, although required by the Rules and Regulations of the Commission; and

(3) A copy of the indenture relating to the authorized funded debt set forth under Item 13 (a) filed as Exhibit B under a covering Form 8, although required by the Rules and Regulations of the Commission; and

Whereas Section 13 (a) and (b) of said Securities Exchange Act of 1934, as amended, requires that every issuer of a security on a national securities exchange shall file such annual reports as the Commission may by rule and regulation prescribe; and

Whereas said The Autoline Oil Company filed on or about May 1, 1936, an annual report for the year ended December 31, 1935, pursuant to Section 13 (a) and (b) of said Securities Exchange Act of 1934, as amended, and Rules KA1 and KA2 promulgated by the Commission thereunder; and

Whereas said The Autoline Oil Company has failed to comply with the provisions of said Section 13 (a) and (b), said Rules KA1 and KA2 and with the provisions of said Form 10–K and with the provisions of the Instructions for said Form 10–K and the Rules and Regulations of the Commission supplemental thereto, as amended, in that the annual report filed by it for the year ended December 31, 1935

(1) Fails to contain a profit and loss statement which indicates the net profit for the period, although required by Item 8 of said Form 10–K and the Instructions thereto and the Rules and Regulations of the Commission;

(2) Fails to show, in the statement submitted as purporting to be the profit and loss statement, an analysis of each surplus account, although required by Item 8 of said Form 10–K and the Instructions thereto, and the Rules and Regulations of the Commission;

(3) Fails to include Schedules IV, V, VI, VII and VIII in support of the registrant's financial statements, although required by Item 8 of said Form 10–K and the Instructions thereto, and the Rules and Regulations of the Commission;

(4) Fails to include an accountant's certificate to the financial statements, filed as part of said annual report, which is based upon an adequate audit and prepared in conformity with the requirements of the Instructions as to the scope of such audit and the matters to be covered in the certificate, although required by Item 8 of said Form 10–K and the Instructions thereto and the Rules and Regulations of the Commission; and

(5) Fails to state the aggregate remuneration of each person among the officers, directors and employees of the registrant receiving one of the three highest aggregate amounts of remuneration under subdivision (a) and the aggregate remuneration of all directors in all of their capacities under subdivision (b) of Item 9, although required by said Item 9 of said Form 10–K, and the Rules and Regulations of the Commission; and

Whereas said The Autoline Oil Company has failed to comply with Section 13 (a) and (b) of said Securities Exchange Act of 1934, as amended, and with Rules KA1 and KA2 promulgated by the Commission thereunder in that as issuer of said Preferred Capital Stock, $10 Par Value, and Common Capital Stock, $10 Par Value, it has failed to file information and documents required by Rule KA1, adopted by the Commission pursuant to said Section 13 (a) and has failed to file its annual report for the year ended December 31, 1936 on Form 10–K as required by Rule KA2, adopted by the Commission pursuant to said Section 13 (b);

It is ordered, That pursuant to Section 19 (a) (2) of said Securities Exchange Act of 1934, as amended, a hearing be held to determine whether said The Autoline Oil Company has so failed to comply with said provisions of said Section 12 (b) (1) and said Section 13 (a) and (b) and said Rules and Regulations promulgated by the Commission thereunder, or with any provision of either of said Sections, or of any Rule or Regulation promulgated by the Commission under either of said Sections, and if so, whether it is necessary or appropriate for the protection of investors to suspend for a period not exceeding twelve months or to withdraw the registration of said Preferred Capital Stock, $10 Par Value, and said Common Capital Stock, $10 Par Value, on said Baltimore Stock Exchange; and

It is further ordered, That said The Autoline Oil Company appear before an officer of the Commission and show

cause why the registration of said Preferred Capital Stock, $10 Par Value, and said Common Capital Stock, $10 Par Value, on said Baltimore Stock Exchange, should not be suspended for a period not exceeding twelve months or withdrawn as provided in Section 19 (a) (2) of the Securities Exchange Act of 1934, as amended; and

It is further ordered, That for the purpose of such proceeding, Charles S. Moore, an officer of the Commission, be and he hereby is designated to administer oaths and affirmations, subpoena witnesses, compel their attendance, take testimony and require the production of any books, papers, correspondence, memoranda or other records deemed relevant or material to the inquiry, and to perform all other duties in connection therewith authorized by law; and

It is further ordered, That a public hearing for the taking of testimony begin on the 24th day of November at 10:00 A. M. in Room 1103, at the office of the Securities and Exchange Commission, 1778 Pennsylvania Avenue NW., Washington, D. C., and continue thereafter at such times and places as said officer may determine.

By direction of the Commission.

[SEAL] FRANCIS P. BRASSOR, *Secretary.*

[F. R. Doc. 37-3331; Filed, November 15, 1937; 12:45 p. m.]

United States of America—Before Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission held at its office in the City of Washington, D. C., on the 11th day of November, A. D. 1937.

IN THE MATTER OF UNITED TOWNS ELECTRIC CO., LTD. FIRST AND REFUNDING MORTGAGE, 6%, SERIES "A" BONDS, DUE 1945

ORDER TO SHOW CAUSE AND FOR HEARING, DESIGNATING OFFICER AND TIME AND PLACE FOR TAKING TESTIMONY

Whereas, United Towns Electric Company, Ltd., a corporation, is the issuer of First and Refunding Mortgage, 6%, Series "A" Bonds, due 1945; and

Whereas said United Towns Electric Company, Ltd., registered such securities on the Baltimore Stock Exchange, a national securities exchange, by filing on or about August 22, 1935, an application with the said Exchange and with the Commission pursuant to Section 12 (b) of the Securities Exchange Act of 1934, as amended, and pursuant to Rule JB1, as amended, and Rule JB3, as amended, promulgated by the Commission thereunder; and

Whereas said Rule JB1, as amended, at the time said application was filed and at all subsequent times did and does require such application to be filed on Form 10 for Corporations; and

Whereas in accordance with the provisions of Form 10 for Corporations, and the Instructions and Rules and Regulations of the Commission supplemental thereto, as amended, as to the use of said Form 10 for Corporations, in effect both at the time said application was filed and at all subsequent times, Item 18 (g) of said form did and does require a brief outline of the principal provisions permitting any substitution, stating whether or not any notice is required in connection with any such substitution, of any property securing an issue of funded debt set forth under Item 13 (a) which is to be registered; and Item 36 of said form did and does require that Schedules numbered I to IX, inclusive, in the form and manner prescribed by the Instruction Book for Form 10 for Corporations be furnished where applicable and reference thereto made on the face of the balance sheet and profit and loss statement in appropriate places; and further, Item 36 of said form did and does require the registrant to submit financial statements certified in accordance with and in the manner prescribed by the Instruction Book for Form 10 for Corporations; and Rule JB3, as amended, did and does require that every amendment to an application for registration pursuant to Rule JB1 shall be filed with the exchange and with the Commission on Form 8 and shall conform to the requirements governing the original application with respect to the number of copies filed and similar matters; and

Whereas said United Towns Electric Company, Ltd., has failed to comply with the provisions of said Section 12 (b) of said Securities Exchange Act, as amended, with the provisions of said Rule JB1, as amended, said Rule JB3, as amended, with the provisions of said Form 10 for Corporations, and with the provisions of said Instructions and Rules and Regulations of the Commission supplemental thereto, as amended, in that material purporting to be Amendments No. 2 and 3 to the application for registration of said securities was not filed under covering Form 8, as required by Rule JB3, and in that material purporting to be said Amendment No. 2 was not filed in triplicate, as required by Rule JB3, and in that the application filed by it for registration of said securities on said Exchange pursuant to said Section 12 (b) does not contain the following:

(1) A statement under Item 18 (g) as to whether or not any notice to the trustee is required in connection with the substitution of any property securing the bonds, although required by the Instructions and Rules and Regulations thereunder;

(2) Schedules I to IX, inclusive, required pursuant to the Instructions to Item 36 furnished in support of the financial statements, although required by the Rules and Regulations of the Commission; and

(3) Accountants' certificates meeting the requirements set forth in the Instructions for said form, in that the accountants do not state their opinions as to the profit and loss statements or as to the accounting principles and procedures followed by the registrant; and

Whereas Section 13 (a) and (b) of said Securities Exchange Act of 1934, as amended, requires that every issuer of a security on a national securities exchange file such annual reports as the Commission may by rule and regulation prescribe; and

Whereas said United Towns Electric Company, Ltd., filed on or about September 10, 1936, an annual report for the fiscal year ended December 31, 1935, pursuant to Section 13 (a) and (b) of said Securities Exchange Act, as amended, and Rules KA1 and KA2 promulgated by the Commission thereunder; and

Whereas said United Towns Electric Company, Ltd., has failed to comply with the provisions of said Section 13 (a) and (b), said Rules KA1 and KA2 and with the provisions of said Form 10-K, and with the provisions of the Instructions for said Form 10-K, and the said Rules and Regulations of the Commission supplemental thereto, as amended, in that the annual report filed by it for the year ended December 31, 1935,

(1) Fails to include a statement as to the registrant's securities other than equity securities, owned by each director and each officer of the registrant, covering both the securities owned of record and those owned beneficially, as of the registrant's fiscal year, although required by Item 4 of said Form 10-K and the Instructions thereto, and the Rules and Regulations of the Commission; and

(2) Fails to include Schedules I to XI, inclusive, in support of the financial statements of the registrant and its subsidiaries, although required by Item 8 of said Form 10-K and the Instructions thereto, and the Rules and Regulations of the Commission; and

(3) Fails to include accountants' certificates in connection with the financial statements of the registrant and its subsidiaries, which contain a statement of the accountant's opinion with respect to the accounting principles and procedures followed by the registrant and its subsidiaries, and which cover the profit and loss statements furnished for each of the companies, although required by Item 8 of said Form 10-K and the Instructions thereto, and the Rules and Regulations of the Commission; and

Whereas said United Towns Electric Company, Ltd., has failed to comply with Section 13 (a) and (b) of said Securities Exchange Act, as amended, and with Rules KA1 and KA2 promulgated by the Commission thereunder, in that as issuer of said First and Refunding Mortgage, 6%, Series "A" Bonds, due 1945, it has failed to file the information and documents required by Rule KA1 adopted by the Commission pursuant to said Section 13 (a) and has failed to file its annual report for the year ended December 31, 1936, on Form 10–K, as required by Rule KA2, adopted by the Commission pursuant to said Section 13 (b);

It is ordered, That pursuant to Section 19 (a) (2) of the Securities Exchange Act of 1934, as amended, a hearing be held to determine whether said United Towns Electric Company, Ltd., has so failed to comply with said provisions of said Section 12 (b) (1) and said Section 13 (a) and (b) and said Rules and Regulations promulgated by the Commission thereunder, or with any provision of either of said Sections, or of any Rule or Regulation promulgated by the Commission under either of said Sections; and if so, whether it is necessary or appropriate for the protection of investors to suspend for a period not exceeding twelve months or to withdraw the registration of said First and Refunding Mortgage, 6%, Series "A" Bonds, due 1945, on said Baltimore Stock Exchange; and

It is further ordered, That said United Towns Electric Company, Ltd. appear before an officer of the Commission and show cause why the registration of said First and Refunding Mortgage, 6%, Series "A" Bonds, due 1945, on said Baltimore Stock Exchange should not be suspended for a period not exceeding twelve months or withdrawn, as provided in Section 19 (a) (2) of the Securities Exchange Act of 1934, as amended; and

It is further ordered, That for the purpose of such proceeding, Robert P. Reeder, an officer of the Commission, be and he hereby is designated to administer oaths and affirmations, subpoena witnesses, compel their attendance, take testimony and require the production of any books, papers, correspondence, memoranda or other records deemed relevant or material to the inquiry, and to perform all other duties in connection therewith authorized by law; and

It is further ordered, That a public hearing for the taking of testimony begin on the 30th day of November, 1937, at 10:00 A. M. in Room 1103 at the office of the Securities and Exchange Commission, 1778 Pennsylvania Avenue NW., Washington, D. C. and continue thereafter at such times and places as said officer may determine.

By direction of the Commission.

[SEAL] FRANCIS P. BRASSOR, *Secretary.*

[F. R. Doc. 37–3332; Filed, November 15, 1937; 12:45 p. m.]